

Appl. No. 09/870,952
Amdt. dated Dec. 19, 2003
Reply to Office Action of Nov. 4, 2003

REMARKS

Claims 1, 3-6, 8-11, 13-18, and 21-34 remain in the application. Claims 2, 7, 12, 19, and 20 have been canceled without prejudice. Claim 1 has been amended to incorporate the allowable subject matter of claim 2. Claim 4 has been amended into independent form. Claim 6 has been amended to incorporate the allowable subject matter of claim 7. Claim 9 has been amended into independent form. Claim 11 has been amended to incorporate the allowable subject matter of claim 12. Claim 13 has been amended into independent form. Claim 18 has been amended into independent form. Claims 21-34 have been added to depend from the allowable claims. These added claims are duplicates of claims previously existing in the original claims with different dependencies. Thus, no new subject matter has been added with these added claims.

The addition and cancellation of claims has results in the addition of 3 independent claims and 9 total claims beyond the original filing of 4 independent claims and 20 total claims. Therefore, check for \$420.00 for additional claim fees under 37 CFR 1.16(b) and 1.16(c) is enclosed.

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A. Allowable Subject Matter

Claims 2, 4, 7, 9, 12, 13, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

B. 35 U.S.C. § 102(b)

McIntyre - Claims 1, 5, 6, 10, 11, 14-16, 19, and 20

Claims 1, 5, 6, 10, 11, 14-16, 19, and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,932,925 issued August 3, 1999 to Gerald McIntyre (hereinafter “the McIntyre patent”) (Office Action, page 2).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Independent claim 1 (from which claim 5 depends) has been amended to incorporate the allowable subject matter of claim 2. Independent claim 6 (from which claim 10 depends) has been amended to incorporate the allowable subject matter of claim 7. Independent claim 11

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(from which claims 14-16 depend) has been amended to incorporate the allowable subject matter of claim 12. Independent claim 19 and its dependent claim 20 have been canceled.

Therefore, as claims 1, 5, 6, 10, 11, and 14-16 are believed to be in conditions for allowance, reconsideration and withdrawal of the Section 102(b) rejection of claims 1, 5, 6, 10, 11, 14-16, (claims 19 and 20 having been canceled) are respectfully requested.

C. 35 U.S.C. § 103(a)

McIntyre, Jones, and Jordan - Claims 3, 8, and 17

Claims 3, 8, and 17 stand rejected under 35 U.S.C. § 103(a) as being obvious over the McIntyre patent in view of U.S. Patent 6,219,241 issued April 2001 to David Jones (hereinafter “the Jones patent) and U.S. Patent 5,386,338 issued January 31, 1995 to Jordan, et al. (“the Jordan patent”) (Office Actions, page 3).

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

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Claim 1 (from which claim 3 depends) has been amended to incorporate that allowable subject matter of claim 2. Independent claim 6 (from which claim 8 depends) has been amended to incorporate the allowable subject matter of claim 7. Independent claim 11 (from which claim 17 depends) has been amended to incorporate the allowable subject matter of claim 12.

Therefore, as claims 3, 8, and 17 are believed to be in condition for allowance through their dependency from allowable independent claims, reconsideration and withdrawal of the Section 103(a) rejection of claims 3, 8, and 17, are respectfully requested.

In view of the foregoing remarks, the Applicants request allowance of the application. Please forward further communications to the address of record. If the Examiner needs to contact the below-signed attorney to further the prosecution of the application, the contact number is (208) 433-9217.

Respectfully submitted,



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